



**DRYDEN
POLICY
DIRECTIVE**

DPD 5101.1A
Effective Date: October 5, 2004
Expiration Date: October 5, 2009

This document is uncontrolled when printed.

Before use, check the Master List to verify that this is the current version.

Compliance is mandatory.

RESPONSIBLE OFFICE: L/Office of the Chief Counsel

SUBJECT: Requirements for Legal Review of Acquisition Matters (Revalidated)

1. POLICY

a. Acquisition and other contractual matters that have legal implications shall be reviewed by the Office of the Chief Counsel. The following acquisition actions shall be submitted to the Office of the Chief Counsel for legal review prior to release or execution.

- (1) All solicitations, contracts, and amendments/modifications with an estimated value over \$500,000 (including the value of all options). Routine incremental funding documents are specifically excluded from this requirement.
- (2) All proposed contracts for human research, personal services, or with foreign contractors Irrespective of dollar value.
- (3) Any action submitted to NASA Headquarters including the Office of Procurement and Office of the General Counsel.
- (4) Justifications for Other than Full and Open Competition.
- (5) Procurement related submissions to Congress, Congressional committees, individual Senators or Representatives, the Comptroller General, the Justice Department, Federal or State agencies, courts and other judicial tribunals, the Armed Services Board of Contract Appeals, or the NASA Contracts Adjustments Board.
- (6) All responses to protests to the Contracting Officer, the agency, or the GAO, whether submitted directly to the protester or to NASA Headquarters.
- (7) Proposed rejection of bids; rejection or acceptance of mistake in bids; terminations; and other claims or requests for relief.
- (8) Proposed actions, findings, or decisions on claims submitted under the Contract Disputes Act. (Concurrence of the Office of the Chief Counsel shall be made prior to forwarding the proposed action to the Contractor.)
- (9) Correspondence and other communications that entail the interpretation of contractual provisions or other legal instruments, or otherwise involve matters of law including cure notices, show cause letters, novations, levies, and assignments.
- (10) Proposed local procurement contract clauses, policies, procedures, instructions, and regulations; non-routine delegations of authority; contract forms and clauses; and proposed deviations from established acquisition policies, instructions, regulations, prescribed contract forms and clauses.
- (11) Orders placed for the acquisition of supplies or services with other Government agencies which commit NASA resources, and any communications with such agencies on acquisition matters that have legal implications.
- (12) Procurement matters involving intellectual property rights.

- b. Items a (3) and a (5) must be reviewed by the Office of the Chief Counsel prior to submission to NASA Headquarters and legal review may not be waived. For all other items the Office of the Chief Counsel may choose to waive its review. Such waivers are within the discretion of the Office of the Chief Counsel; the Acquisition Management Office cannot exercise a waiver on its own. Where such discretion is exercised by the Office of the Chief Counsel, the item or file containing the item shall bear the notation "Not Reviewed by Legal Counsel".
- c. Requests for legal advice or review on intellectual property matters [inventions, reporting, ownership, etc., copyrights, trade secrets, proprietary data, use restrictions on data, computer licenses, non-disclosure agreements, etc.] involving acquisitions are to be referred to the Office of Public Affairs, Commercialization, and External Outreach for processing by the assigned Patent Attorney.
- d. Except for emergencies, contractual documents requiring legal review will be submitted far enough in advance of the required action to accommodate an orderly and meaningful review.
- e. Contractual documents falling within the purview of this DPD will be formally reviewed after completion of all work by the Acquisition Management Office and immediately before submission to either the contractor or the Contracting Officer for execution. For internal documents other than contractual documents, the sequence of formal review is as follows:
 - (1) For documents whose final approval lies within the Acquisition Management Office, the legal review will immediately precede the approving official.
 - (2) For documents whose final approval lies outside the Acquisition Management office, the legal review will immediately follow the review of the Procurement Officer.
- f. If a document that has been reviewed by the legal office is to be changed substantively, further review between legal and acquisition personnel (either formal or informal) will be required.
- g. Immediately upon receipt of a protest, or claim under the Contract Disputes Act, a copy will be provided to the Office of the Chief Counsel.

2. SCOPE AND APPLICABILITY

This policy is applicable to all Dryden employees who are responsible for documenting, reviewing, coordinating, and approving Acquisition and other contractual matters that have legal implications. It applies to items listed in section 1 of this document. Only the Chief Counsel can waive the review process as described in section 1.b.

3. AUTHORITY

NPD 5101.1 Requirements for legal Review of Procurement Matters. Responsibilities of this procedural directive allows for offices to establish thresholds for review based on resources available.

4. REFERENCES – None

5. RESPONSIBILITY

- a. Legal Counsel is responsible for:
 - (1) Participate in acquisition strategy meetings and source selection presentations.
 - (2) Assist in preparing, drafting, negotiating, and interpreting contracts, grants, cooperative agreements, and similar instruments, including statements of work and specifications.
 - (3) Advise program and procurement officials in the administration of contracts, grants, cooperative agreements, and similar instruments.
 - (4) Serve in an ex officio capacity to all Source Evaluation Boards/Teams/Committees.

- (5) Render advice to all elements of the Acquisition Management Office when a contract specialist desires a written opinion. (A written request shall be submitted.)
- b. Procurement Officers and employees handling procurement matters are responsible for:
 - (1) Being knowledgeable of policy, procedures, and practices pertaining to acquisition matters.
 - (2) Ensuring Legal Counsel is consulted during all phases of documenting, reviewing, coordinating, and approving acquisition matters

6. DELEGATION OF AUTHORITY – None

7. MEASUREMENTS

Documents reviewed are documented in a database and the database is reviewed annually for compliance with this policy.

8. CANCELLATION – None

/S/ Kevin L. Petersen or Delegated Official

DISTRIBUTION:

IDMS

A/Chief, Acquisitions

Document History Log

This log is for informational purposes and does not have to be retained with the document.

| Status Change | Document Revision | Effective Date | Page | Description of Change |
|----------------------|--------------------------|-----------------------|-------------|---|
| Baseline | | 1-20-99 | | |
| Revision | A | 10-5-04 | All | Revalidation. |
| Admin. Change | | 11-18-04 | All | Added "Compliance is mandatory." to first page. |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |